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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 1254/2017**

RAJNI KANT

..... Petitioner

Through Mr.Rama Shankar, Adv. with
Mr.Kuldeep Singh, Adv.

versus

THE STATE

..... Respondent

Through: Mr. Amit Chadha, APP for the State
with SI Manmeet Malik, PS Hazrat Nizamuddin,
Delhi.

Mr.S. Satyanarayana, Adv. for complainant.

CORAM:

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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05.07.2017

Crl.M.A. 10310/2017 (exemption)

Exemption allowed subject to all just exception.

Application is disposed of.

BAIL APPLN. 1254/2017

1. Apprehending his arrest, the petitioner has moved this Court under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail in the case registered against him vide FIR No.527/2016 dated 31st December, 2016 under Sections 420/34 IPC, Police Station Hazarat Nizamuddin, Delhi, on the complaint of Smt.Bimla Devi Dagur.
2. Notice. Counsel for the State accepts notice.
3. It is submitted by the learned counsel for the petitioner that the anticipatory bail was declined by the learned ASJ vide order dated 24th

March, 2017 without appreciating the fact that the petitioner had no intention to sell the entire lower ground floor to the complainant. Learned counsel for the petitioner submits that the petitioner had only sold an area of 33.45 sq. yards (front portion) of the property No.26, Lower Ground Floor, Bazar Lane, Jangpura, Bhogal, New Delhi, whereas the complainant has falsely alleged that the entire area measuring 83.5 sq. yds. of the said property had been sold to her. He submits that the complainant herself forged and fabricated the documents of the entire 83.5 sq. yds. of the said property and got the signatures of the petitioner and his wife and on the basis of the forged and fabricated documents, the complainant and her husband are claiming to have become the owner of the entire property. He submits that no recovery is to be made out from the petitioner. He submits that the petitioner is a government servant and a handicapped person and suffering from various diseases like Spina Bifida and Hernia and the custodial interrogation would deteriorate his health.

4. Per contra, learned APP for the State submits that the petitioner got executed two sale deeds in his favour i.e. one sale deed dated 15th May, 2013 for an area of 33.45 sq. yards and another sale deed dated 24th May, 2013 for an area of 43.5 sq. yards for sale consideration of Rs.33 lacs and 18 lacs respectively. The vendor of the petitioner namely Gambhir Singh purchased the entire property measure 83.5 sq. yards by way of one registered sale deed dated 15th May, 2013. He further submits that as per the version of the complainant, the petitioner informed her that he had taken a loan from M/s. J&K Bank Ltd. on the entire area of 83.53 sq. yards and a sum of Rs.27 lacs was outstanding. Believing this representation, the complainant visited J&K Bank Ltd. and obtained photocopies of the documents and based on

this information, the complainant paid earnest money of Rs.21 lacs by cash and cheques to the petitioner on 9th April, 2015 in the presence of Sanjay Sharma and R.K. Jain. The complainant had agreed to settle the remaining amount of Rs.27 lacs with the J&K Bank Ltd. by making payment by EMIs. An Agreement to Sell, General Power of Attorney, Affidavit and Possession Letter were executed on 8th July, 2015 by the petitioner and his wife Smt.Malti in favour of the complainant and her husband Lal Singh Dagur. The complainant has also received physical possession of the property. A Tripartite Agreement dated 20th September, 2016 among the complainant, the petitioner and J&K Bank Ltd. was executed on 20th September, 2016.

5. Learned APP for the State further submits that M/s. Indian Overseas Bank pasted a notice on the said property which revealed that the petitioner had taken another loan from Indian Overseas Bank against the rear portion of the property consisting of 43.5 sq. yards. He submits that this was concealed by the petitioner with *mens rea* and that is why he got executed two Sale Deeds in his favour from his vendor. Learned APP for the State further points out that there was no entry or exist in the rear portion and in fact this property was a compact property No.26 consisting of 83.53 sq. yards and with *malafide* intention the petitioner had cheated the complainant by receiving valuable consideration. He further points out that the Indian Overseas Bank has also filed an application under Section 14 of SARFAESI Act which reflects an outstanding amount of Rs.34,37,560/- against the petitioner and his wife. He submits that the security furnished to Indian Overseas Bank was the rear portion of the said property. The complainant had approached the petitioner to pay the outstanding dues of the Indian Overseas Bank and supply them No Objection Certificate which he refused.

6. The sale documents comprising of General Power of Attorney, Agreement to Sell, Receipt and Possession Letter dated 8th July, 2015 were executed by the petitioner and his wife Smt.Malti in favour of the complainant and her husband. The petitioner and his wife have sold the entire property measuring 83.5 sq. yards comprised of Khasra No.354, MCD No.26, Bazar Lane Jangpura, Bhogal, New Delhi, for Rs.48 lacs out of which they had received Rs.21 lacs from the complainant and her husband and it was agreed that balance amount of Rs.27 lacs, which was the outstanding amount, shall be paid by the complainant and her husband to the J&K Bank Ltd. The possession of the property was also delivered to the complainant and her husband.

7. The petitioner has obviously concealed the factum of taking loan from Indian Overseas Bank by furnishing security for an area of 43.5 sq. yards of the said property. The petitioner and his wife have obviously cheated the complainant and her husband with *malafide* intention. The custodial interrogation of the petitioner is required to unearth the conspiracy and ascertain the truth. Case is at initial stage of investigation.

8. In view of the grave allegations levelled against the petitioner in cheating the complainant and her husband, no case for grant of anticipatory bail is made out. Bail application is hereby dismissed.

VINOD GOEL, J.

JULY 05, 2017/jitender